

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of)

Amendment of Section 73.202)

Table of Allotments,)

FM Broadcast Stations.)

(Memphis, Tennessee, Olive)

Branch and Horn Lake, Mississippi))

MM Docket No. 02-31/
 RM-10351

To: Chief, Allocations Branch

COMMENTS OF CLEAR CHANNEL BROADCASTING LICENSES, INC.

Clear Channel Broadcasting Licenses, Inc. ("CCBL"), licensee of
 KJMS(FM), Channel 266C1, Memphis, Tennessee (Facility ID No. 35874), and
 WOTO(FM), Channel 239A, Olive Branch, Mississippi (Facility ID No. 58399), by
 its attorneys, respectfully urges the Commission to adopt the following three
 modifications (collectively, the "Proposal"), pursuant to CCBL's Petition for Rule
 Making (together with exhibits and attachments, the "Petition") and the
 Commission's Notice of Proposed Rule Making in this proceeding: 1/

- a) modification of the Commission's Table of Allotments for
 FM Broadcast Stations (Section 73.202 of the Commission's Rules)

1/ *Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Memphis, Tennessee, Olive Branch and Horn Lake, Mississippi), Notice of Proposed Rule Making, MM Docket No. 02-31 (Allocations, released Feb. 15, 2002) (the "Notice").*

- to: (i) delete Channel 239A from Olive Branch, Mississippi, and (ii) add Channel 239A to Horn Lake, Mississippi;
- b) modification of the Commission's Table of Allotments for FM Broadcast Stations (Section 73.202 of the Commission's Rules) to: (i) delete Channel 266C1 from Memphis, Tennessee, and (ii) add Channel 266C1 to Olive Branch, Mississippi; and
- c) modification of the license of WOTO to specify operations on Channel 239A in Horn Lake, Mississippi, in lieu of operation on Channel 239A in Olive Branch, Mississippi, and the license of KJMS to specify operations on Channel 266C1 in Olive Branch, Mississippi, in lieu of operation on Channel 266C1 in Memphis, Tennessee.

In reviewing a proposed change to the FM Table of Allotments, the Commission asks whether the proposal would serve one or more of the Commission's four allotment priorities. 2/ Here, the only two priorities relevant to the Proposal direct its grant.

First, grant of the Proposal would provide first local aural transmission service to Horn Lake, Mississippi. The community of Horn Lake, with a 2000 Census population of 14,099, has its own elected government, its own schools, its own fire and police departments, its own churches, its own local organizations, and dozens of businesses. 3/ Under any reading of Commission precedent, Horn Lake also deserves its own local transmission service.

2/ See *Parker & Port St. Joe R&O*, 11 FCC Rcd 1095, 1095 (¶ 4) (1996). The four allotment priorities are: i) one full-time aural reception service to a community; ii) a second full-time aural reception service to a community; iii) one local transmission service to a community; or iv) other public interest factors. *Id.* The second and third criteria have equal priority.

3/ See Petition at Exhibit 1. In the *Notice*, the Commission also determined that no *Tuck* showing was necessary with regard to the re-assignment of Channel 239A from Olive Branch to Horn Lake. See *Notice* at ¶ 3.

Second, the Proposal will provide substantial technical and other public interest benefits. As noted in the Petition, which these comments incorporate by reference in their entirety, the Proposal is projected to increase the total number of persons served by WOTO and KJMS, with a total net service gain of more than 7,400 persons. 4/ In addition, the Proposal will eliminate one short spacing. 5/

Third, grant of the Proposal will not deprive Olive Branch of its sole local transmission service. Under the Proposal, and consistent with FCC precedent, Olive Branch will maintain a local FM transmission service through the reassignment of KJMS from Memphis to Olive Branch. 6/ Memphis, of course, will remain the community of license of nearly 20 other radio stations, even after the proposed move of KJMS. 7/

4/ See Exhibit 2 of Petition at 4.

5/ *Id.* at 3. Elimination of existing short spacings is a significant public interest benefit. See *Anniston and Ashland, Alabama, and College Park, Covington, Milledgeville, and Social Circle, Georgia*, Report and Order, 15 FCC Rcd 9971 (Allocations, 2000) (holding that "elimination of two existing short-spacings to be compelling factors" in favor of allotment proposal).


6/ See, e.g., *Dayton, Incline Village and Reno, Nevada*, Report and Order, MM Docket No. 99-229 (Allocations, Nov. 17, 2000) (approving reallocation of Incline Village's sole FM allotment -- Channel 261C -- to Dayton while simultaneously approving, as a replacement allocation, the reallocation of Channel 295C from Reno to Incline Village).

7/ See *Broadcasting & Cable Yearbook 2001* at D-240 (2001).

For the foregoing reasons, the Commission should approve the proposed modifications to the FM Table of Allotments and to WOTO's and KJMS's licenses under Section 1.420(i) of the Commission's Rules.

Respectfully submitted,

HOGAN & HARTSON L.L.P.

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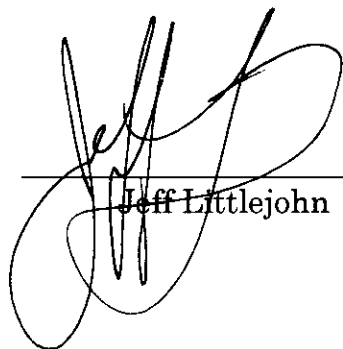
April 3, 2002

DECLARATION

I, Jeff Littlejohn, declare as follows:

1. I am Senior Vice President, Engineering, of Clear Channel Broadcasting Licenses, Inc., the licensee of WOTO(FM), Channel 239A, Olive Branch, Mississippi, and KJMS(FM), Channel 266C1, Memphis, Tennessee.
2. CCBL intends to apply for construction permits for Channels 239A and 266C1 to specify operations for WOTO and KJMS in Horn Lake and Olive Branch, Mississippi, respectively, upon adoption of the relevant Notice of Proposed Rule Making.
3. If awarded the construction permits for Channels 239A and 266C1, CCBL promptly will construct and operate such facilities.

I hereby declare under penalty of perjury that the statements made in this declaration are true and accurate to the best of my knowledge, information and belief.



Jeff Littlejohn

April 2, 2002